

DETAILED ACTION

I. Action Summary

Claims 1-11 are currently pending. After the examiner's amendment below, claims 1-3 and 5-11 are in condition for allowance.

II. Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this amendment was obtained in a telephonic conversation with Mr. Joseph Murphy on 05/02/2011.

The application has been amended as follows:

In claim 1, before the end period, please **ADD** ---, further characterized by an x-ray powder diffraction spectrum having peaks expressed as 2 θ at about 9.4, 9.8, 14.9, 16.4, 18.2, 18.5, 18.8, 19.5, 20.2, 22.7, 23.8, 24.5 and 28.4 degrees---.

Please, **CANCEL** claim 4.

III. Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

Summary of Interview:

To introduce XRPD data of the crystalline form prepared for proper written description.

An agreement has been reached which is reflected in this action.

Rupatadine is known in the prior art. Note the cited prior art in the Information Disclosure Statement received on 09/14/2006 and the reference Carceller *et al.* (J. Med. Chem. (1994), 37(17); p. 2697-2703). The prior art teach a very different melting point for the solid rupatadine compound and a different crystallization procedure than the one in the instant application. Therefore, the claimed crystalline form of rupatadine is a different form from that of the prior art.

Therefore, claims 1-3 and 5-11 are allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

IV. Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VALERIE RODRIGUEZ-GARCIA whose telephone number is (571)270-5865. The examiner can normally be reached on Monday-Friday, 9:00-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew D. Kosar can be reached on 571-272-0913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VALERIE RODRIGUEZ-GARCIA/
Examiner, Art Unit 1622
May 2, 2011